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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2012-47

12 **YUTAKA YASUDA**
13 **9045 Judicial Drive, Apt. 1113**
14 **San Diego, CA 92122**

A C C U S A T I O N

15 **Registered Nurse License No. 742403**
Public Health Nurse Certificate No. 74770

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about January 12, 2009, the Board of Registered Nursing issued Registered
24 Nurse License Number 742403 to Yutaka Yasuda (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 August 31, 2012, unless renewed.

27 3. On or about February 17, 2009, the Board of Registered Nursing issued Public Health
28 Nurse Certificate Number 74770 to Respondent. The Public Health Nurse Certificate was in full

1 force and effect at all times relevant to the charges brought herein and will expire on August 31,
2 2012, unless renewed.

3 JURISDICTION

4 4. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code (Code) unless otherwise indicated.

7 5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
8 any licensee, including a licensee holding a temporary or an inactive license, for any reason
9 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

10 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
11 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
12 licensee or to render a decision imposing discipline on the license. Under section 2811,
13 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
14 years after the expiration.

15 STATUTORY PROVISIONS

16 7. Section 482 of the Code states:

17 Each board under the provisions of this code shall develop criteria to evaluate
18 the rehabilitation of a person when:

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

21 Each board shall take into account all competent evidence of rehabilitation
22 furnished by the applicant or licensee.

23 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
24 revoke a license on the ground that the licensee has been convicted of a crime substantially
25 related to the qualifications, functions, or duties of the business or profession for which the
license was issued.

26 9. Section 493 of the Code states:

27 Notwithstanding any other provision of law, in a proceeding conducted by a
28 board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person who

1 holds a license, upon the ground that the applicant or the licensee has been convicted
2 of a crime substantially related to the qualifications, functions, and duties of the
3 licensee in question, the record of conviction of the crime shall be conclusive
4 evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

5 As used in this section, "license" includes "certificate," "permit," "authority,"
6 and "registration."

7 10. Section 2761 of the Code states:

8 The board may take disciplinary action against a certified or licensed nurse or
9 deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

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13 (f) Conviction of a felony or of any offense substantially related to the
14 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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16 11. Section 2765 of the Code states:

17 A plea or verdict of guilty or a conviction following a plea of nolo contendere
18 made to a charge substantially related to the qualifications, functions and duties of a
19 registered nurse is deemed to be a conviction within the meaning of this article. The
20 board may order the license or certificate suspended or revoked, or may decline to
21 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information or indictment.

22 REGULATORY PROVISIONS

23 12. California Code of Regulations, title 16, section 1444, states:

24 A conviction or act shall be considered to be substantially related to the
25 qualifications, functions or duties of a registered nurse if to a substantial degree it
26 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

27 (a) Assaultive or abusive conduct including, but not limited to, those violations
28 listed in subdivision (d) of Penal Code Section 11160.

1 (b) Failure to comply with any mandatory reporting requirements.

2 (c) Theft, dishonesty, fraud, or deceit.

3 (d) Any conviction or act subject to an order of registration pursuant to Section
4 290 of the Penal Code.

5 13. California Code of Regulations, title 16, section 1445 states:

6

7 (b) When considering the suspension or revocation of a license on the grounds
8 that a registered nurse has been convicted of a crime, the board, in evaluating the
9 rehabilitation of such person and his/her eligibility for a license will consider the
10 following criteria:

11 (1) Nature and severity of the act(s) or offense(s).

12 (2) Total criminal record.

13 (3) The time that has elapsed since commission of the act(s) or offense(s).

14 (4) Whether the licensee has complied with any terms of parole, probation,
15 restitution or any other sanctions lawfully imposed against the licensee.

16 (5) If applicable, evidence of expungement proceedings pursuant to Section
17 1203.4 of the Penal Code.

18 (6) Evidence, if any, of rehabilitation submitted by the licensee.

19 COSTS

20 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 CAUSE FOR DISCIPLINE

25 (March 23, 2011 Criminal Conviction for Disorderly Conduct on December 8, 2010)

26 15. Respondent has subjected her license to disciplinary action under sections 490 and
27 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
28 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
follows:

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1 a. On or about March 23, 2011, in a criminal proceeding entitled *People of the*
2 *State of California v. Yutaka Yasuda*, in San Diego County Superior Court, case number
3 M125506, Respondent was convicted on his plea of guilty of violating Penal Code section 647,
4 subdivision (j)(2), disorderly conduct (invading privacy with a concealed camera), a
5 misdemeanor. An additional count of secretly filming a person (in violation of Pen. Code, §
6 647(j)(3)(A)) was dismissed pursuant to a plea agreement.

7 b. As a result of the conviction, on or about March 23, 2011, Respondent was
8 sentenced to three years summary probation, and ordered to pay \$479 in fees, fines, and
9 restitution. Respondent was further ordered to complete counseling with a licensed therapist.

10 c. The facts that led to the conviction are that on or about the afternoon of
11 December 10, 2010, the regional loss prevention officer for a La Jolla clothing store contacted the
12 San Diego Police Department after three digital recording devices were found attached to curtains
13 of the store's dressing rooms. The devices were checked and the suspect (Respondent) was
14 identified through the recordings as the person placing the devices on the curtains. The devices
15 contained recordings of two female victims in the dressing rooms. When Respondent returned to
16 the clothing store, he was intercepted by the police officers. During a pat down for weapons, the
17 officer found three more recording devices in Respondent's jacket pocket. Respondent admitted
18 that he had placed the recording devices in the dressing rooms and allowed the officers to access
19 his laptop computer to retrieve the recordings. Inside the laptop case were additional recordings
20 of the store's dressing rooms, including recordings of females undressing.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 742403 issued to Yutaka Yasuda;
2. Revoking or suspending Public Health Nurse Certificate Number 74770 issued to Yutaka Yasuda;
3. Ordering Yutaka Yasuda to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED:

July 21, 2011

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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